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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,804	02/11/2002	Hans-Dieter Thieme	GMH/382/US	4377

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EXAMINER

SELF, SHELLEY M

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,804

Applicant(s)

THIEME, HANS-DIETER

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "35". A proposed drawing correction or corrected drawings are required in reply to the Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 1, the claim fails to positively recite a critical interrelationship between the elements (tool, lock, lock mount, sensor, band, etc...)

With regard to claim 2, it is unclear whether the *lock* is deflected out of a rest position or if the *band* is deflected... Examiner suggests, wherein the *lock* or *band* etc...is deflected out...

With regards to claims 3 and 9, the term "*and/or*" renders the claims vague and indefinite. It is unclear whether the sensor senses the band, the detent, or both. Additionally

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claim 2, clearly states that the detent is sensed by the sensor, however claim 3 states a part which senses the band and/or the detent, this is contradictory and renders the claims indefinite.

With regards to claims 4 and 10, neither "*the direction of the sensing movement*" nor "*the direction in which the lock is to be introduced...*" has been positively recited/defined in the claims. It is unclear how such directions relate to the claimed invention.

With regards to claims, 8, 19 and 20, the claims fail to positively recite a critical interrelationship between the blade and the tool arrangement.

In general the claims are replete with antecedent basis concerns and should be reviewed carefully for proper antecedent bases. For example, claim 1, states "the ends" (line 2), "the presence" (line 4), and "the absence" (lines 4 & 5). Claims 4 and 10, state "the direction" (lines 1 & 2) and "the sensing movement (line 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20, as best as can be understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bretti et al. (4,908,911). With regard to claims 1, 3, and 9, Bretti discloses a tool arrangement for binding an object, in particular a cable harness by means of a band (52), the ends of which are guided through a lock (62) for which there is provided in the tool (50) a lock

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mount [Examiner notes a lock mount to be a support, and the apparatus serves as a mount/support for the lock]. Bretti does not disclose a sensor [Examiner notes sensor to be a device that responds to a physical stimulus (i.e. pressure) and transmits a resulting signal/impulse (as for measuring or operating a control)]. Bretti does however disclose a sequence/steps of events for operating the tool wherein various components act as a "sensor" (col. 8, lines 31- 68 to col. 9, lines 1-31). Since it has been held that broadly providing an automatic means which accomplishes the same result involves only routine skill in the art.

With regard to claim 2, Bretti discloses at least one detent (74, 76).

With regard to claims 4 and 10 Bretti discloses a direction of the sensing movement of the sensor coinciding with the direction in which the lock is placed in the lock mount.

With regard to claims 5 and 11, Bretti discloses a sensor of multi-step design (138).

With regard to claims 6, 12, 13 and 14, Bretti discloses a lock having a through passage (fig. 3).

With regards to claims 8, 19 and 20, Bretti discloses a blade (86, 152) for cutting and acting as a stop.

With regard to claims 7, 15, 16, 17 and 18, Bretti does not disclose a lock mount having fixing clips for the lock. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide "fixing clips" for mounting the lock to the lock mount. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with any of a mechanical equivalents (i.e. clips, snaps, bolts, screws etc...).

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Hodosy et al. (5,873,303), O'Sullivan (4,534,817), Countryman (3,489,076), Nirei (5,208,948) and Schafer et al. (5,471,920).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

SSelf
January 9, 2003


ALLEN OSTRAGER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700